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4 DAVID NATHANIEL ROBERTS,
5 Plaintiff,
6 v.
7 MONTEREY COUNTY JAIL, et al.,
8 Defendants.
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10 Case No. [20-cv-07969-SI](#)
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12 **ORDER OF DISMISSAL**
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14 Re: Dkt. No. 2
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16 On January 20, 2021, the court ordered plaintiff, David Nathaniel Roberts, to show cause no
17 later than February 26, 2021 why this action should not be dismissed under 28 U.S.C. § 1915(g),
18 which provides that a prisoner may not bring a civil action *in forma pauperis* under 28 U.S.C. § 1915
19 “if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility,
20 brought an action or appeal in a court of the United States that was dismissed on the grounds that it
21 is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner
22 is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). The order identified
23 five prior dismissals that appeared to count under § 1915(g), stated that plaintiff did not appear to
24 be under imminent danger of serious physical injury when he filed the complaint, and ordered
plaintiff to show cause why pauper status should not be denied and the action should not be
dismissed. The order further stated that plaintiff also could avoid dismissal by paying the filing fee
by the deadline.

Plaintiff did not respond to the order to show cause, and the deadline by which to do so has
passed.

Each of the five earlier dismissals identified in the order to show cause counts as a dismissal
for § 1915(g) purposes. Plaintiff has not paid the filing fee, has not shown that any of the prior

1 dismissals could not be counted under § 1915(g), does not appear to have been under imminent
2 danger of serious physical injury at the time he filed this action, and has not otherwise shown cause
3 why this action could not be dismissed. For the foregoing reasons, plaintiff's *in forma pauperis*
4 application is DENIED. Docket No. 2. This action is DISMISSED for failure to pay the filing fee.
5 The dismissal is without prejudice to plaintiff asserting his claims in a new complaint for which he
6 pays the full filing fee at the time he files that action.

7 The clerk shall close the file.

8 **IT IS SO ORDERED.**

9 Dated: March 24, 2021



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11 SUSAN ILLSTON
United States District Judge